

FILED by **MDC** D.C.  
ELECTRONIC

**April 30, 2009**

STEVEN M. LARIMORE  
CLERK U.S. DIST. CT.  
S.D. OF FLA. - MIAMI

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 09-80053-CR-MARRA/HOPKINS**

**18 U.S.C. § 1349**

**18 U.S.C. § 1341**

**18 U.S.C. § 1343**

**18 U.S.C. § 2**

**UNITED STATES OF AMERICA**

**vs.**

**ANDREW STEINBERG**

**and**

**STEPHEN DUFFIE,**

**Defendants.**

**INDICTMENT**

The Grand Jury charges that:

**GENERAL ALLEGATIONS**

At various times relevant to this Indictment:

1. Fidelity ATM ("Fidelity") was a Florida corporation that sold business opportunities to own and operate automatic teller machines ("ATMs"). Fidelity's principal place of business was located in Palm Beach County at 1375 Gateway Blvd., in Boynton Beach, Florida, and later, at 701 SE 6th Ave., Suite 201, in Delray Beach, Florida.

2. Fidelity employed various types of sales representatives, including "fronters," "references," and "closers." A "fronter" spoke to prospective purchasers when the prospective

purchaser initially contacted Fidelity in response to an advertisement. "References," whom Fidelity representatives identified to potential purchasers as satisfied Fidelity customers, spoke to some prospective purchasers. A "closer" later spoke to prospective purchasers to close deals.

3. Defendant **ANDREW STEINBERG** was the founder and head of Fidelity, and acted as a primary closer.

4. Defendant **STEPHEN DUFFIE** was the business manager of Fidelity and spoke to customers both before and after the sale.

**COUNT 1**  
**Conspiracy to Commit Mail and Wire Fraud**  
**(18 U.S.C. § 1349)**

1. Paragraphs 1 through 4 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around August 2004, through in or around November 2006, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendants,

**ANDREW STEINBERG**  
**and**  
**STEPHEN DUFFIE,**

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate and agree with each other and with others, known and unknown to the Grand Jury, to commit certain offenses against the United States, that is:

(a) to knowingly and with intent to defraud devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that they were false and fraudulent when made, and place in a post office and authorized depository for mail matter, any matter to be sent and

delivered by the United States Postal Service, and deposit and cause to be deposited any matter to be sent and delivered by a private and commercial interstate carrier, and knowingly cause to be delivered certain matter by mail and a private and commercial interstate carrier, according to the directions thereon, for the purpose of executing the scheme and artifice, in violation of Title 18, United States Code, Section 1341;

(b) to knowingly and with intent to defraud devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that they were false and fraudulent when made, transmit and cause to be transmitted certain wire communications in interstate and foreign commerce, for the purpose of executing the scheme and artifice, in violation of Title 18, United States Code, Section 1343.

### **PURPOSE OF THE CONSPIRACY**

3. It was the purpose of the conspiracy for the defendants and their co-conspirators to unlawfully enrich themselves by obtaining money from prospective business opportunity purchasers by means of materially false statements and representations and the concealment of material facts concerning, among other things, the expected profits of the Fidelity ATMs, the services Fidelity would provide to purchasers, and the authenticity of Fidelity references.

### **MANNER AND MEANS OF THE CONSPIRACY**

The manner and means by which the defendants and their co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among others, the following:

4. Fidelity advertised its ATM business opportunity through the Internet. For a purchase price of approximately \$29,995, Fidelity representatives, including **ANDREW STEINBERG** and

**STEPHEN DUFFIE**, promised to provide three ATMs, secure high-traffic locations for the ATMs, install the ATMs, and provide customer service. Fidelity also sold, for higher purchase prices, larger packages with additional ATMs and locations.

5. Interested prospective purchasers who viewed Fidelity's Internet advertising could respond by sending an electronic message to Fidelity and by calling a toll-free telephone number. Fidelity "fronters" initially spoke to prospective purchasers and used a sales script to describe the business opportunity.

6. Fidelity then sent written promotional materials to interested prospective purchasers by overnight delivery service and by email.

7. Fidelity "closers," including **ANDREW STEINBERG** and **STEPHEN DUFFIE**, subsequently spoke to prospective purchasers to try to close the sale.

8. Fidelity representatives, including **ANDREW STEINBERG**, provided prospective purchasers with the names and telephone numbers of "references" who purportedly were satisfied Fidelity customers. Some of the references were phony. Fidelity representatives and others pretended to be Fidelity customers and falsely told prospective purchasers that their ATM business opportunities were successful.

9. To fraudulently induce others to purchase ATM business opportunities, **ANDREW STEINBERG** and **STEPHEN DUFFIE**, and their co-conspirators, provided and made, and caused others to provide and make, numerous materially false statements, and omitted and concealed, and caused others to omit and conceal, numerous material facts, including, among others, the following:

**Materially False Statements**

- a. That purchasers likely would earn substantial profits by purchasing the Fidelity business opportunity;
- b. That Fidelity's existing customers were earning substantial profits from their ATM businesses;
- c. That Fidelity would soon secure contracts with nationwide chains of supermarkets and other businesses to locate large numbers of ATMs;
- d. That if a purchaser's ATMs failed to achieve a certain number of daily transactions, Fidelity would promptly relocate the ATMs without charge to more profitable locations;
- e. That only a small percentage of Fidelity's customers requested new ATM locations;
- f. That certain "references" provided by Fidelity's sales representatives had previously purchased an ATM business opportunity from Fidelity;

**Omission/Concealment of Material Facts**

- g. That Fidelity had received complaints from past purchasers about Fidelity's slow delivery of ATMs, Fidelity's failure to find profitable locations for the ATMs, and the low number of ATM transactions;
- h. That a high percentage of Fidelity customers requested new locations for their ATMs because of low transaction volume in the original locations;
- i. That it was **ANDREW STEINBERG** who in truth headed Fidelity's business operations and not the individual listed on the promotional materials as Fidelity's president and director;

j. That **ANDREW STEINBERG** had been convicted of a federal felony offense in 1999;

k. That one of Fidelity's references was a friend of **ANDREW STEINBERG's** family who had never purchased a business opportunity from Fidelity nor owned an ATM; and

l. That several other Fidelity references were not Fidelity customers, but Fidelity representatives and others who only pretended to be satisfied Fidelity customers.

All in violation of Title 18, United States Code, Section 1349.

**COUNTS 2-8**  
**Mail Fraud**  
**(18 U.S.C. §§ 1341 and 2)**

1. Paragraphs 1 through 4 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around August 2004, through in or around November 2006, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendants,

**ANDREW STEINBERG**  
**and**  
**STEPHEN DUFFIE,**

did knowingly and with intent to defraud devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that they were false and fraudulent when made, and place in a post office and authorized depository for mail matter, any matter to be sent and delivered by the United States Postal Service, and did deposit and cause to be deposited matter to be sent and delivered by a private and commercial interstate carrier, and did knowingly cause to be delivered

certain matter by mail and a private and commercial interstate carrier, according to the directions thereon.

#### **PURPOSE OF THE SCHEME AND ARTIFICE**

3. It was the purpose of the scheme and artifice for the defendants and their accomplices to unlawfully enrich themselves by obtaining money from prospective business opportunity purchasers by means of materially false statements and representations and the concealment of material facts concerning, among other things, the expected profits of the business opportunities they sold, the services the companies would provide to purchasers, and the authenticity of company references.

#### **MANNER AND MEANS OF THE SCHEME AND ARTIFICE**

4. Paragraphs 4 through 9 of the Manner and Means section of Count 1 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.

#### **USE OF THE MAILS**

5. On or about the dates specified as to each Count below, the defendants, for the purpose of executing and in furtherance of the aforesaid scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, did place in a post office and authorized depository for mail matter, any matter to be sent and delivered by the United States Postal Service, and did deposit and cause to be deposited matter to be sent and delivered by a private and commercial interstate carrier, and did knowingly cause to be delivered certain matter by mail and a private and commercial interstate carrier, according to the directions thereon, such matters and things, as alleged in each count as follows:

COUNT	APPROX. DATE	DESCRIPTION OF ITEM
2	November 29, 2004	"Master Dealer Agreement" sent via FedEx by Fidelity from Boynton Beach, Florida, to D.C. and L.C. in Georgia.
3	July 13, 2005	"Master Dealer Agreement" sent via FedEx by Fidelity from Boynton Beach, Florida, to D.M. in Sarasota, Florida.
4	August 12, 2005	"Master Dealer Agreement" and a check for \$29,995 sent via FedEx by D.N. from Kissimmee, Florida, to Fidelity in Boynton Beach, Florida.
5	December 2, 2005	Materials related to the Fidelity business opportunity sent via FedEx by Fidelity from Boynton Beach, Florida, to K.M. in Redington Shores, Florida.
6	December 28, 2005	"Master Dealer Agreement" sent via FedEx by Fidelity from Boynton Beach, Florida, to M.P. in Utah.
7	September 26, 2006	Materials related to the Fidelity business opportunity sent via DHL by Fidelity from Delray Beach, Florida, to A.D. in Miami, Florida.
8	October 5, 2006	Check for \$48,490 sent via U.S. Mail by D.G. from Arizona to Fidelity in Delray Beach, Florida, as payment for a Fidelity business opportunity.

In violation of Title 18, United States Code, Sections 1341 and 2.

**COUNTS 9-16**  
**Wire Fraud**  
**(18 U.S.C. §§ 1343 and 2)**

1. Paragraphs 1 through 4 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around August 2004, through in or around November 2006, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendants,

**ANDREW STEINBERG**  
**and**  
**STEPHEN DUFFIE,**

did knowingly and with intent to defraud devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that they were false and fraudulent when made, and did transmit and cause to be transmitted, by means of wire communications in interstate and foreign commerce, certain writings, signs, signals, pictures, and sounds.

**PURPOSE OF THE SCHEME AND ARTIFICE**

3. It was the purpose of the scheme and artifice for defendants and their accomplices to unlawfully enrich themselves by obtaining money from prospective business opportunity purchasers by means of materially false statements and representations and the concealment of material facts concerning, among other things, the expected profits of the business opportunities they sold, the services Fidelity would provide to purchasers, and the authenticity of company references.

**MANNER AND MEANS OF THE SCHEME AND ARTIFICE**

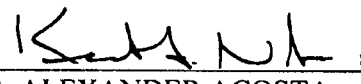
4. Paragraphs 4 through 9 of the Manner and Means section of Count 1 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.


**USE OF THE WIRES**

5. On or about the dates specified as to each Count below, the defendants, for the purpose of executing and in furtherance of the aforesaid scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, did transmit and cause to be transmitted, by means of wire communications in interstate and foreign commerce, certain writings, signs, signals, pictures, and sounds, as follows:

COUNT	APPROX. DATE	DESCRIPTION OF WIRE COMMUNICATION
9	September 11, 2004	Electronic mail with attached "Master Dealer Agreement" sent by Fidelity in the Southern District of Florida to R.B. in Maryland.
10	November 18, 2004	Electronic mail with attached "Master Dealer Agreement" sent by Fidelity in the Southern District of Florida to M.U. and C.U. in New York.
11	December 2, 2004	Electronic mail sent by Fidelity in the Southern District of Florida to Bruce Goldstein in Texas describing misrepresentations Goldstein should make to M.U. and C.U. in an upcoming "reference" call.
12	January 17, 2005	Electronic mail sent by Fidelity in the Southern District of Florida to Bruce Goldstein in Texas describing misrepresentations Goldstein should make to S.N. in an upcoming "reference" call.
13	March 25, 2005	Wire transfer of \$29,995 by G.A. and T.A. from Colorado to a bank in the Southern District of Florida as payment for a Fidelity business opportunity.
14	April 8, 2005	Facsimile copy of a "Master Dealer Agreement" sent by E.G. in Michigan to Fidelity in the Southern District of Florida.
15	April 13, 2005	Electronic mail sent by Fidelity in the Southern District of Florida to Bruce Goldstein in Texas describing misrepresentations Goldstein should make to F.P. in an upcoming "reference" call.
16	August 2005	Telephone sales call between a Fidelity representative in the Southern District of Florida and A.S. in North Carolina regarding the Fidelity business opportunity.

In violation of Title 18, United States Code, Sections 1343 and 2.

  
\_\_\_\_\_  
R. ALEXANDER ACOSTA  
UNITED STATES ATTORNEY

  
\_\_\_\_\_  
ALAN PHELPS  
TRIAL ATTORNEY  
U.S. DEPARTMENT OF JUSTICE

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

CASE NO. \_\_\_\_\_

vs.

## CERTIFICATE OF TRIAL ATTORNEY\*

ANDREW STEINBERG and  
STEPHEN DUFFIE,

Defendants. \_\_\_\_\_/

## Superseding Case Information:

Court Division: (Select One)

_____ Miami	_____ Key West	
_____ FTL	<u>X</u> WPB	_____ FTP

 New Defendant(s) \_\_\_\_\_  
 Number of New Defendants \_\_\_\_\_  
 Total number of counts \_\_\_\_\_

Yes \_\_\_\_\_ No \_\_\_\_\_

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.

2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) No  
List language and/or dialect \_\_\_\_\_4. This case will take 14 days for the parties to try.

5. Please check appropriate category and type of offense listed below:

(Check only one)

(Check only one)

I	0 to 5 days	_____
II	6 to 10 days	_____
III	11 to 20 days	<u>X</u>
IV	21 to 60 days	_____
V	61 days and over	_____

Petty	_____
Minor	_____
Misdem.	_____
Felony	<u>X</u>

6. Has this case been previously filed in this District Court? (Yes or No) No

If yes:

Judge: \_\_\_\_\_

Case No. \_\_\_\_\_

(Attach copy of dispositive order)

Has a complaint been filed in this matter? (Yes or No) No

If yes:

Magistrate Case No. \_\_\_\_\_

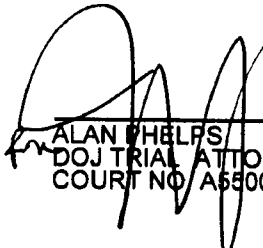
Related Miscellaneous numbers: \_\_\_\_\_

Defendant(s) in federal custody as of \_\_\_\_\_

Defendant(s) in state custody as of \_\_\_\_\_

Rule 20 from the \_\_\_\_\_

District of \_\_\_\_\_

Is this a potential death penalty case? (Yes or No) No7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? \_\_\_\_\_ Yes X No8. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to September 1, 2007? \_\_\_\_\_ Yes X No
  
 ALAN PHELPS  
 DOJ TRIAL ATTORNEY  
 COURT NO. A5500939

\*Penalty Sheet(s) attached

REV 4/8/08

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: Andrew Steinberg Case No: \_\_\_\_\_

Count #: 1

Conspiracy to Commit Mail and Wire Fraud

18 U.S.C. § 1349

\*Max Penalty: 20 years' imprisonment

Counts #: 2 - 8

Mail Fraud

18 U.S.C. § 1341

\*Max Penalty: 20 years' imprisonment

Counts # 9 - 16

Wire Fraud

18 U.S.C. § 1343

\*Max Penalty: 20 years' imprisonment

Count #:

\*Max Penalty:

**\*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: Stephen Duffie Case No: \_\_\_\_\_

Count #: 1

Conspiracy to Commit Mail and Wire Fraud

18 U.S.C. § 1349

\*Max Penalty: 20 years' imprisonment

Counts #: 2 - 8

Mail Fraud

18 U.S.C. § 1341

\*Max Penalty: 20 years' imprisonment

Counts # 9 - 16

Wire Fraud

18 U.S.C. § 1343

\*Max Penalty: 20 years' imprisonment

Count #:

\*Max Penalty:

**\*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**